THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.14086 OF 2007

DATED 03-07-2007

Between:

M/s Mahi Motors … Petitioner

And

The Commercial Tax Officer and two others … Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.14086 OF 2007

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties and with their consent, the writ petition is being disposed of at this stage.

Pending appeal before the Sales Tax Appellate Tribunal, the petitioner made an application for stay before the Tribunal, which had no jurisdiction to entertain the application and the stay application had to be filed before the Joint Commissioner. In the meantime, garnishee notice under Section 17 of the Andhra Pradesh General Sales Tax Act,1957 and distraint order in Form –1 under the Revenue Recovery Act have been issued.

We have gone through the record and heard learned counsel for the parties. We feel that the interest of justice would be met if stay of recovery is granted pending disposal of the appeal, subject to deposit of 25 per cent of the disputed penalty by the petitioner. Therefore, we direct that there shall be stay of recovery on payment of 25 per cent of the disputed penalty, within a period of four weeks. For four weeks, there shall be an unconditional stay and the garnishee notice and the distraint order shall not be given effect to and if the amounts as directed by us are paid, the garnishee notice and the distraint order shall stand quashed and the stay of recovery shall continue till disposal of the appeal. The deposit of amount shall be without

prejudice to the rights of the petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed penalty, while calculating the 25 per cent amount, the amount already paid by the petitioner shall be given credit to.

The writ petition is accordingly disposed of. No order as to costs.

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(Bilal Nazki, J)

Dated 3rd July, 2007

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(Nooty Ramamohana Rao,J)

Note: ***Issue wire at party's cost***

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